

Remarks

In view of the above amendments and the following remarks, reconsideration of the rejections and further examination are requested.

Initially, it is noted that claim 2 has been rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Specifically, the rejection indicates that the limitation “scrambled key information” lacks proper antecedent basis. Since claim 2 is no longer pending in the application, it appears that this rejection is, in fact, referring to claim 35. In this Amendment, claim 35 has been canceled without prejudice or disclaimer to the subject matter contained therein. As a result, the rejection under 35 U.S.C. §112, second paragraph, is no longer applicable.

Claims 34, 35 and 37 have been rejected under 35 U.S.C. §102(e) as being clearly anticipated by Sogabe (US 6,611,534). Claim 36 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Sogabe in view of Ishiguro (US 5,917,910).

Claim 34 has been amended so as to further distinguish the present invention from the references relied upon in the above-mentioned rejections. Further, new claims 38-40 have been added.

The above-mentioned rejections are submitted to be inapplicable to the claims for the following reasons.

Claim 34 is patentable over Sogabe and Ishiguro, since claim 34 recites an information recording medium for recording scrambled data from a recording device including scrambled key information, the information recording medium including, in part, cipher key information and the scrambled data obtained by scrambling contents data using the scrambled key information, wherein the scrambled key information is generated in the recording device from at least the cipher key information and copy control information. Sogabe and Ishiguro fail to disclose or suggest the information recording medium including the cipher key information as recited in claim 34.

Sogabe discloses a system for storing contents on a recording medium as enciphered data. In the system, a set-top-box (STB) 12 and a DVD-RAM device (DRD) 116 authenticate each other. The DRD 116 then deciphers an enciphered control key (eKcontrol) sent from the STB 12 to generate a control key (Kcontrol). The STB 12 next sends an enciphered contents key (eKcontent) to the DRD 116 together with enciphered digital contents. The enciphered digital

contents contain copy control data (CGMS). The DRD 116 generates a contents key (Kcontent) from the enciphered contents key using the control key and CGMS. The contents key is capable of deciphering the enciphered digital contents. The DRD 116 then records the enciphered digital contents directly on the recording medium and records the corresponding contents key and the CGMS in a gap area of the recording medium. (See column 8, lines 10 and 11 and column 9, lines 27-54).

Based on the above discussion of Sogabe, the DRD 116 receives both the control key and the contents key from the STB 12 in enciphered form. The DRD 116 is able to decipher the control key and then use the control key to decipher the contents key. The contents key, which is capable of deciphering the enciphered digital contents, is then recorded on the recording medium with the enciphered digital contents. In comparing the disclosure of Sogabe with the invention as recited in claim 34, it is apparent that the two are quite different.

Since the control key is used to decipher the contents key in Sogabe, the control key can be said to correspond to the claimed cipher key information, which is used to generate the scrambled key information. Further, since the contents key in Sogabe is used to decipher the scrambled data, the contents key can be said to correspond to the claimed scrambled key information, which is used to scramble the contents data. However, claim 34 recites that the cipher key information is stored on the information recording medium. Therefore, in order for Sogabe to disclose or suggest this feature, the control key would have to be recorded on the recording medium. Instead, the contents key, not the control key, is stored on the recording medium. Therefore, Sogabe fails to disclose or suggest the present invention as recited in claim 34. Further, it is apparent that it would not have been obvious to one of ordinary skill in the art to combine Ishiguro and Sogabe to render claim 34 obvious as will be discussed below.

Ishiguro discloses an encrypting apparatus 1 that encrypts information prior to saving the information on a recording medium. The encrypting apparatus 1 generates an encryption key based on inherent information and encrypts the information with the encryption key. The encrypted information is then stored on the recording medium. Further, the inherent information is also stored on a predetermined region of the recording medium. The inherent information can be extracted from the recording medium by an authorized device and used to create the decryption key needed to decrypt the encrypted data. The inherent information is described as being a normal file that can be copied. However, unauthorized copying of the recording medium

is prevented because such unauthorized copying results in the position of the inherent information being changed. This change of position of the inherent information prevents the proper creation of the decryption key, which prevents the encrypted information from being decrypted. (See column 1, line 65 - column 2, line 5 and column 4, lines 1-23).

As indicated in the Office Action, Ishiguro does disclose that the inherent information, which is stored on the recording medium, is used to generate the encryption key used to encrypt information to be stored on the recording medium. However, it would not be obvious to combine the inherent information taught by Ishiguro with the system of Sogabe because the inherent information of Ishiguro would have to replace the control key of Sogabe. As discussed above, the control key is sent in enciphered form from the STB 12 to the DRD 116 where it is deciphered and used. The control key is enciphered because it is being transferred between the two devices and there is the potential that it could be intercepted and used in an unauthorized manner otherwise. On the other hand, as also discussed above, the inherent information of Ishiguro is not encrypted (enciphered) and instead relies on its positioning on the recording medium for preventing its unauthorized use. Therefore, replacing the enciphered control key with the unencrypted inherent information of Ishiguro would have the negative effect of increasing the ease in which unauthorized use of the system of Sogabe could be achieved. Since the control key and the inherent information are used in two different environments (i.e., direct transmission between the STB 12 and the DRD 116 in the case of the control key and transmission via the recording medium in the case of the inherent information), and therefore, rely on two different techniques to prevent their unauthorized use, it is apparent that it would not have been obvious to one of ordinary skill in the art to combine the inherent information of Ishiguro with the system of Sogabe to render claim 34 obvious.

As for claims 36 and 37, they are patentable over Sogabe and Ishiguro, either individually or in combination, for reasons similar to those set forth above in support of claim 34. That is, claims 36 and 37 recite, in part, the reading of cipher key information from an information recording medium, which feature is not disclosed or suggested by the references.

Because of the above-mentioned distinctions, it is believed clear that claims 34 and 36-40 are allowable over the references relied upon in the rejections. Furthermore, it is submitted that the distinctions are such that a person having ordinary skill in the art at the time of invention would not have been motivated to make any combination of the references of record in such a

manner as to result in, or otherwise render obvious, the present invention as recited in claims 34 and 36-40. Therefore, it is submitted that claims 34 and 36-40 are clearly allowable over the prior art of record.

In view of the above amendments and remarks, it is submitted that the present application is now in condition for allowance. The Examiner is invited to contact the undersigned by telephone if it is felt that there are issues remaining which must be resolved before allowance of the application.

Respectfully submitted,

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September 22, 2005